

REMARKS

No claims have been amended, added, or canceled. Claims 1-142 are pending.

CLAIM REJECTIONS—35 U.S.C. § 102

The Office Action rejected Claims 1-17, 19, 22-49, 51, 55-64, 72-88, 90, 93-120, 122, and 126-135 under 35 U.S.C. §102(e) as being anticipated, allegedly, by Ginter et al., U.S. Patent Application Publication 2004/0133793 (“Ginter”). The rejections are traversed.

Among other features, Claims 1 and 23 recite “accessing information pertaining to said particular contract, said information comprising a **quota parameter, which specifies a quota of resources that can be consumed** under said particular contract, and one or more contract terms associated with said particular contract.” Similarly, Claim 56 recites “accessing a first set of information pertaining to said particular contract, said first set of information comprising a **quota parameter, which specifies a quota of resources that can be consumed** under said particular contract, and one or more contract terms associated with said particular contract.”

In rejecting Claims 1, 23, and 56, the Office Action cites portions of Ginter that say that a content provider might require **metering** of the number of copies made for distribution to employees. This **metering** apparently keeps track of the number of copies that actually have been distributed.

However, the quantity of copies that have been distributed is **not** the same as a **quota** that specifies a quantity of resources **that can be consumed**. The quota specifies the **maximum** quantity of resources that **still can be** consumed, rather than how many resources **already have been** consumed. A meter is **not** a quota.

Therefore, the portions of Ginter cited in the Office Action do not disclose, teach, or suggest the features of Claims 1, 23, and 56 discussed above. Consequently, Claims 1, 23, and 56 are patentable over Ginter under 35 U.S.C. § 102(e).

By virtue of their dependence from Claim 1, Claims 2-17, 19, and 22 inherit the features that are distinguished from Ginter. By virtue of their dependence from Claim 23, Claims 24-49, 51, and 55 inherit the features that are distinguished from Ginter. By virtue of their dependence from Claim 56, Claims 57-64 inherit the features that are distinguished from Ginter. Therefore, Claims 2-17, 19, 22, 24-49, 51, 55, and 57-64 are also patentable over Ginter under 35 U.S.C. § 102(e).

Claims 5 and 29 additionally require the receiving of a second inquiry that regards obtaining a **service**. The portions of Ginter cited in the rejections of these claims discuss electronic information products, records, games, movies, newspapers, personal electronic mail, and confidential records. None of the information discussed in these portions of Ginter is a **service**. These portions of Ginter do **not** teach, suggest, or disclose receiving an inquiry that regards obtaining a **service**.

Ginter generally describes protecting electronic content by encapsulating that electronic content within a virtual content container. A “service” is not electronic content and cannot be encapsulated in such a virtual content container.

Claims 6 and 30 additionally require that the **service** recited in Claims 5 and 29, respectively, comprise **technical support**. Again, the portions of Ginter cited in the rejections of these claims discuss electronic information products, records, games, movies, newspapers, personal electronic mail, and confidential records. None of the information discussed in these portions of Ginter is **technical support**. These portions of

Ginter do **not** teach, suggest, or disclose receiving an inquiry that regards obtaining **technical support**.

Claims 14 and 44 additionally require that the inquiries recited in Claims 1 and 23, respectively, specify a parameter that indicates **a desired amount of time for which a set of software is to be licensed**. Claims 15 and 45 additionally require that the inquiries recited in Claims 1 and 23, respectively, specify a parameter that indicates **how many users may concurrently use a set of software**.

In rejecting these claims, the Office Action cites Ginter's paragraph [0111], which says, in relevant part, "VDE can further be used to enable commercially provided electronic content to be made available to users in user defined portions." With the benefit of hindsight, one might imagine today that such "user defined portions" might somehow be made to relate to a "desired amount of time for which a set of software is to be licensed," or "how many user may concurrently use a set of software." However, Ginter simply isn't this specific. The specific details of Claims 14, 15, 44, and 45 simply can't be inferred from Ginter's vague and nonspecific statements. The Office Action provides no evidence or reasoning as to why one of ordinary skill in the art at the time of the filing of the application would have inferred the specific details of Claims 14, 15, 44, and 45 from Ginter's vague and nonspecific statements. Ginter doesn't disclose, teach, or suggest the specific details of Claims 14, 15, 44, and 45.

Additionally, Claims 14, 15, 44, and 45 each require that the parameters, which indicate the specific details recited in those claims, be specified by **an inquiry** regarding licensing a set of software. Even if Ginter disclosed that VDE could be used to constrain the license time for a set of software or the number of users that could concurrently use a set of software, Ginter **still** wouldn't disclose, teach, or suggest that such constraints were

**parameters specified by an inquiry** regarding licensing of the set of software. Even if VDE could be **used** to enforce such constraints, it doesn't logically follow that VDE in any way involves an **inquiry** that specifies parameters of the specific kind recited in Claims 14, 15, 44, and 45.

Furthermore, Claims 19, 53, and 54 depend from claims (i.e., Claims 18 and 50) which comprise features that the Office Action **admits** that Ginter does not disclose (“Ginter does not disclose receiving a request to terminate a license, determining a refund amount, and updating the quota parameter based on the refund,” Office Action, page 17). Because Claims 18 and 50 are patentable over Ginter under 35 U.S.C. § 102(e), Claims 19, 53, and 54 must also be patentable over Ginter under 35 U.S.C. § 102(e).

Claims 72-88, 90, 93-120, 122, and 126-135 recite computer-readable media bearing instructions for performing the methods of Claims 1-17, 19, 22-49, 51, and 55-64, respectively. Therefore, Claims 72-88, 90, 93-120, 122, and 126-135 are also patentable over Ginter under 35 U.S.C. § 102(e).

#### CLAIM REJECTIONS—35 U.S.C. § 103

The Office Action rejected Claims 18, 20-21, 50, 52-54, 65-71, 89, 91-92, 121, 123-125, and 136-142 under 35 U.S.C. § 103(a) as being unpatentable, allegedly, over Ginter. The rejections are traversed.

Among other features, Claims 18, 50, and 65 recite “updating said quota parameter based, at least partially, upon said refund amount.” The Office Action acknowledges that Ginter does not disclose, teach, or suggest this feature.

Instead, the Office Action reasons that giving customers refunds for unused portions is (allegedly) an old and well-established business practice, and that, therefore,

one of ordinary skill would have found it obvious to modify Ginter's approach to incorporate the features of Claims 18, 50, and 65.

However, even if it was well-known to give a customer a refund, it does not logically follow that a **quota parameter** would be updated based on a refund amount. There is no teaching or suggestion in the art that providing a customer a refund necessarily involves updating a quota parameter at all. Typically, when a customer returns an item to a business and asks for a refund, no quota is involved at all. Even if the business accepts the returned item and returns to the customer the purchase price of the item, the business does not impose a quota on the customer, nor does the business update a quota when the item is returned.

As is discussed above, a **quota** specifies a quantity of resources that **still can be** consumed. The business does not maintain, relative to a customer, a quota that indicates how many resources the customer can consume. Even if the business provides the customer with store credit in exchange for the return of the item, this credit is not a limit on how many items the customer can purchase, because the customer can use funds above and beyond the credit to purchase items for which the credits alone would not compensate. The business does not impose a quota on the quantity of items that the customer is allowed to purchase. Naturally, due to its interest in profits, the business will allow the customer to purchase as many items as the customer desires.

The Office Action also admits that Ginter does not disclose receiving a request to terminate a license as recited in Claims 18, 50, and 65. Even if it was well known for a business to give a customer a refund for an unused portion of an item that the customer had purchased, it is **not** a well known or accepted practice, even today, to give a customer a refund **after the customer has requested the termination of a license for a set of**

**software.** Even present-day software companies will **not** give refunds, partial or otherwise, when licenses to use their software are terminated. If the Examiner can cite even one example of a business that gives a refund when a customer has terminated his license to use software licensed by that business, Applicants would be interested in hearing about it. Until such an example is provided, Applicants will continue to maintain that it would **not** have been obvious, at the time of the filing of the present application, for a business to give a customer a refund after the customer has requested the termination of a license for a set of software. Applicants respectfully contend that such a practice is unheard of, even today, in the software industry.

Therefore, Claims 18, 50, and 65 are patentable over Ginter under 35 U.S.C. § 103(a). By virtue of their dependence from Claim 18, Claims 20 and 21 incorporate the features that are distinguished from Ginter. By virtue of their dependence from Claim 50, Claims 51 and 52 incorporate the features that are distinguished from Ginter. By virtue of their dependence from Claim 65, Claims 66-71 incorporate the features that are distinguished from Ginter. Therefore, Claims 20, 21, 51, 52, and 66-71 are also patentable over Ginter under 35 U.S.C. § 103(a).

Claims 89, 91-92, 121, 123-125, and 136-142 recite computer-readable media bearing instructions for performing the methods of Claims 18, 20-21, 50, 52-54, and 65-71, respectively. Therefore, Claims 89, 91-92, 121, 123-125, and 136-142 are also patentable over Ginter under 35 U.S.C. § 103(a).

CONCLUSION

The Applicants believe that all issues raised in the Office Action have been addressed and that allowance of the pending claims is appropriate. Therefore, the Applicants respectfully request that a timely Notice of Allowance be issued in this case.

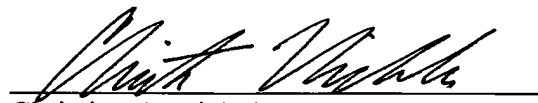
The Examiner is invited to telephone the undersigned at (408) 414-1080 to discuss any issue that may advance prosecution.

No fee is believed to be due specifically in connection with this reply. To the extent necessary, the Applicants petition for an extension of time under 37 C.F.R. § 1.136. The Commissioner is authorized to charge any fee that may be due in connection with this Reply to our Deposit Account No. 50-1302.

Respectfully submitted,

HICKMAN PALERMO TRUONG & BECKER LLP

Dated: March 10, 2006

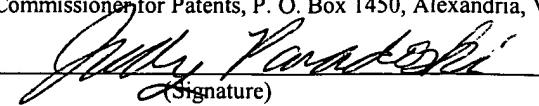
  
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